

SENATE BILL 635

Unofficial Copy
E2

2004 Regular Session
4r1144
CF 4r1723

By: **Senators Giannetti and Stone (Committee to Revise Article 27 - Crimes and Punishments)**

Introduced and read first time: February 6, 2004

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - State's Attorney Review of Applications for**
3 **Statements of Charges**

4 FOR the purpose of requiring certain judicial officers to forward to a State's Attorney
5 a copy of an application filed in the District Court requesting that a statement of
6 charges be filed against certain persons for certain alleged offenses; providing
7 that a District Court judge is subject to certain provisions regarding the
8 forwarding of certain applications for statements of charges; authorizing certain
9 judicial officers to take action on or forward to a State's Attorney a copy of an
10 application filed in the District Court and requested by certain persons that a
11 statement of charges be filed against certain persons alleged to have committed
12 an offense; requiring a State's Attorney to investigate the circumstances of the
13 matter and make recommendations within a certain time period to a certain
14 judicial officer as to whether a statement of charges should be filed under
15 certain circumstances and as to whether a certain summons or warrant should
16 be issued; prohibiting a statement of charges from being filed for certain alleged
17 offenses until a State's Attorney has investigated a certain matter and made
18 recommendations to a certain judicial officer under certain circumstances or
19 until the expiration of a certain time period if no recommendation is received by
20 the State's Attorney; providing that a State's Attorney is not precluded from
21 making a determination that an information should be filed or that a grand jury
22 should be convened to determine if an indictment should be filed; defining a
23 certain term; providing that a certain note contained in this Act is not law; and
24 generally relating to the review of applications filed in the District Court for a
25 statement of charges for certain offenses under certain circumstances.

26 BY repealing and reenacting, with amendments,
27 Article - Courts and Judicial Proceedings
28 Section 2-608
29 Annotated Code of Maryland
30 (2002 Replacement Volume and 2003 Supplement)

31 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
32 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Courts and Judicial Proceedings**

2 2-608.

3 (a) (1) In this section the following words have the meanings indicated.

4 (2) "Charging document" means a written accusation alleging that a
5 defendant has committed an offense.6 (3) "Citation" means a charging document, other than an indictment, an
7 information, or a statement of charges, issued to a defendant by a peace officer or
8 other person authorized by law to do so.9 (4) "Educator" means a principal, vice-principal, teacher, or teacher's
10 aide at a public or private preschool, elementary, or secondary school.

11 (5) "Emergency services personnel" means:

12 (i) A career firefighter of a county or municipal corporation;

13 (ii) An emergency medical services provider as defined in § 13-516
14 of the Education Article of a county or municipal corporation;15 (iii) A rescue squad employee of a county or municipal corporation;
16 and17 (iv) A volunteer firefighter, rescue squad member, or advanced life
18 support unit member of a county or municipal corporation.19 (6) "Indictment" means a charging document returned by a grand jury
20 and filed in circuit court.21 (7) "Information" means a charging document filed in court by a State's
22 Attorney.23 (8) "JUDICIAL OFFICER" MEANS A DISTRICT COURT JUDGE OR DISTRICT
24 COURT COMMISSIONER.25 [(8)] (9) "Offense" means a violation of the criminal laws of the State or
26 any political subdivision of the State.27 [(9)] (10) "Statement of charges" means a charging document, other than
28 a citation, filed in District Court by a peace officer, a District Court Judge, or a
29 District Court Commissioner.30 [(10)] (11) "Law enforcement officer" means a law enforcement officer as
31 defined in § 3-101 of the Public Safety Article or any federal law enforcement officer
32 who exercises the powers set forth in § 2-104 of the Criminal Procedure Article.33 (b) (1) [An] THE JUDICIAL OFFICER SHALL IMMEDIATELY FORWARD TO
34 THE STATE'S ATTORNEY A COPY OF AN application filed in the District Court that

1 requests that a statement of charges be filed against a law enforcement officer,
2 emergency services personnel, or an educator for an offense allegedly committed in
3 the course of executing the duties of the law enforcement officer, emergency services
4 personnel, or educator [shall immediately be forwarded to the State's Attorney].

5 [(c) (1)] (2) (I) Upon receiving an application filed in District Court
6 requesting that a statement of charges be filed against a law enforcement officer,
7 emergency services personnel, or an educator, the State's Attorney shall:

8 [(i)] 1. Investigate the circumstances of the matter; and

9 [(ii)] 2. Make a recommendation to the [District Court
10 Commissioner] JUDICIAL OFFICER as to whether a statement of charges should be
11 filed against the law enforcement officer, emergency services personnel, or the
12 educator.

13 [(2)] (II) If the State's Attorney recommends to a [District Court
14 Commissioner] JUDICIAL OFFICER that a statement of charges be filed against a law
15 enforcement officer, emergency services personnel, or an educator, the State's
16 Attorney shall also make a recommendation as to whether a summons or warrant
17 should issue.

18 [(d)] (3) Notwithstanding any other provision of the Code or the Maryland
19 Rules, a statement of charges for an offense allegedly committed in the course of
20 executing the duties of the law enforcement officer, emergency services personnel, or
21 the educator may not be filed against a law enforcement officer, emergency services
22 personnel, or educator until the State's Attorney has investigated the circumstances
23 of the matter and made recommendations to the [District Court Commissioner]
24 JUDICIAL OFFICER in accordance with [subsection (c) of this section] PARAGRAPH (2)
25 OF THIS SUBSECTION.

26 (C) (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE
27 JUDICIAL OFFICER MAY FILE A STATEMENT OF CHARGES OR MAY FORWARD TO THE
28 STATE'S ATTORNEY A COPY OF AN APPLICATION FILED IN THE DISTRICT COURT BY
29 ANY PERSON WHO IS NOT A LAW ENFORCEMENT OFFICER THAT REQUESTS THAT A
30 STATEMENT OF CHARGES BE FILED AGAINST A PERSON ALLEGED TO HAVE
31 COMMITTED AN OFFENSE.

32 (2) (I) UPON RECEIVING A COPY OF AN APPLICATION FILED IN THE
33 DISTRICT COURT REQUESTING THAT A STATEMENT OF CHARGES BE FILED FOR AN
34 ALLEGED OFFENSE, THE STATE'S ATTORNEY SHALL:

35 1. INVESTIGATE THE CIRCUMSTANCES OF THE MATTER;
36 AND

37 2. WITHIN 60 DAYS OF RECEIPT OF THE APPLICATION, MAKE
38 A RECOMMENDATION TO THE JUDICIAL OFFICER AS TO WHETHER A STATEMENT OF
39 CHARGES SHOULD BE FILED.

1 (II) IF THE STATE'S ATTORNEY RECOMMENDS TO A JUDICIAL
2 OFFICER THAT A STATEMENT OF CHARGES BE FILED FOR AN ALLEGED OFFENSE,
3 THE STATE'S ATTORNEY SHALL ALSO MAKE A RECOMMENDATION AS TO WHETHER A
4 SUMMONS OR WARRANT SHOULD ISSUE.

5 (3) NOTWITHSTANDING ANY OTHER PROVISION OF THE CODE OR THE
6 MARYLAND RULES, IF A JUDICIAL OFFICER FORWARDS A COPY OF AN APPLICATION
7 UNDER PARAGRAPH (1) OF THIS SUBSECTION, A STATEMENT OF CHARGES MAY NOT
8 BE FILED UNTIL:

9 (I) THE STATE'S ATTORNEY HAS INVESTIGATED THE
10 CIRCUMSTANCES OF THE MATTER AND MADE RECOMMENDATIONS TO THE JUDICIAL
11 OFFICER IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION; OR

12 (II) THE EXPIRATION OF THE TIME PERIOD PROVIDED IN
13 PARAGRAPH (2)(I)2 OF THIS SUBSECTION IF NO RECOMMENDATION IS RECEIVED
14 FROM THE STATE'S ATTORNEY.

15 [(e)] (D) This section may not be construed to preclude the State's Attorney
16 from making a determination that an information should be filed [against a law
17 enforcement officer, emergency services personnel, or an educator] or that a grand
18 jury should be convened to determine whether an indictment should be filed.

19 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): It is intended
20 that among the options for recommendations that a State's Attorney may make to the
21 District Court as an alternative to the issuance of a statement of charges under this
22 section is for the parties to engage in mediation to resolve a dispute, if appropriate.

23 SECTION 2. AND BE IT FURTHER ENACTED, That the Committee Note
24 contained in this Act is not law.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2004.